

*REMARKS/ARGUMENTS**Claim Amendment*

Claims 31, 60, and 63 have been amended to recite “cancer” in place of tumor, following the Examiner’s suggestion (see Examiner Interview below). No new matter has been added.

Examiner Interview

Applicants wish to thank Examiner Cecilia M. Jaisle for the courtesies extended to Xavier Pillai, one of Applicants’ attorneys, during the telephonic interview held on September 1, 2009. The Office Action indicates, on the Summary page, that the Action is “non-final.” However, at page 9, the Action indicates that it is “final.” The Examiner clarified that the Action is indeed *non-final*, for which Applicants are grateful.

The Examiner also clarified an oversight in the Office Action. The Office Action stated, in the paragraph bridging pages 8 and 9: “Applicants are entitled to adjuvant treatment claims, i.e., claims 16, 17, 59, [and] 62, as they are entitled to situations where there is already successful treatment with the primary tumor agent. Applicants are entitled to mode of action claims, i.e., claims 40, 41, 63, and 64. However, Applicants are not entitled to broad treatment of tumors claims, i.e., claims 31, 32, 60, and 61.”

However, claim 63 is a treatment of tumors claim and claim 61 is a mode of action claim (or *in vitro* claim). In view of the foregoing, the Examiner indicated that claim numbers 61 and 63 have been inadvertently switched. Accordingly, the Examiner indicated that claim 61 has been allowed and that claim 63 stands rejected under 35 USC 112, first paragraph, along with claims 31, 32, and 60.

The Examiner further indicated that she, though inadvertently, did not consider the claim limitation requiring administration of an antineoplastic alkylating agent. She indicated that the claim would receive favorable consideration if this claim limitation was pointed out in the response. The Examiner also suggested the use of “cancer” rather than “tumor.” Applicants are grateful for the suggestions.

Pending Claims

Claims 1-17, 31-32, 40-41, and 49-64 are currently pending. Claims 1-17, 40-41, 49-59, 61, 62, and 64 are allowed.

Discussion of Rejection

Claims 31, 32, 60, and 63 are rejected under 35 USC 112, first paragraph, for an alleged non-enablement. The Office Action states that the specification is enabling for inactivation of human *O*⁶-alkylguanine-DNA alkyltransferase ("AGT") *in vitro* but it does not, according to the Office Action, reasonably provide enablement for a method for treating tumor cells in a mammal by administering a compound or salt as recited in claims 31, 32, 60, and 63.

However, as indicated during the Examiner Interview, the Office Action did not consider the fact that the rejected claims require the administration of an antineoplastic alkylating agent (in addition to the administration of an AGT inhibitor). There is no question relating to the efficacy of antineoplastic alkylating agents in treating cancer or to the enablement of a claim limitation on the use of such alkylating agents in treating cancer. When there is an already existing cancer treatment, as with the use of alkylating agents, the USPTO practice would allow a claim reciting the use of the existing cancer treatment with an additional active agent. Applicants, therefore, request that the claim limitation reciting administration of an antineoplastic alkylating agent be considered and that these claims be allowed.

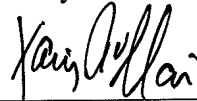
In addition, claims 31, 60, and 63 have been amended to recite "cancer" rather than tumor, following Examiner's suggestion. Thus, only malignant cells are being treated. Claim 32 is dependent upon claim 31.

In view of the foregoing, the non-enablement rejection of claims 31, 32, 60, and 63 should be withdrawn.

Conclusion

The application is in good and proper form for allowance. A favorable and early decision is requested. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



Xavier Pillai, Ph.D., Reg. No. 39,799
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza, Suite 4900
180 North Stetson Avenue
Chicago, Illinois 60601-6780
(312) 616-5600 (telephone)
(312) 616-5700 (facsimile)

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